

Message Text

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ORIGIN EB-02

INFO OCT-01 EUR-01 ISO-00 /004 R

66011

DRAFTED BY EB/IFD/OIA:WWITTING

APPROVED BY EB/IFD/OIA:RJSMITH

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R 080127Z APR 76

FM SECSTATE WASHDC

TO USMISSION OECD PARIS

UNCLAS STATE 084464

FOLLOWING REPEAT LIMA 2344 ACTION SECSTATE INFO USUN NEW YORK

10 MAR 76

QUOTE

UNCLAS LIMA 2344

FOR EB-BOEKER; L-FELDMAN; TREAS - LANGE; COMMERCE - ARRILL;
CIEP - GRANFIELD

E.O. 11652: N/A

TAGS: OCON, EFIN, ECOSOC, PE

SUBJECT: UN COMMISSION ON TNC - US PAPER ON CORRUPT
PRACTICES

TEXT OF US PROPOSAL, SUBMITTED MARCH 10 AS CONFERENCE
ROOM PAPER NO. 4. FOLLOWS:

1. RESOLUTION 3514 (XXX), APPROVED UNANIMOUSLY BY THE GENERAL
ASSEMBLY,
CONDEMNS ALL CORRUPT PRACTICES, INCLUDING BRIBERY, BY TRANSNATIONAL
AND OTHER CORPORATIONS. THEIR INTERMEDIARIES AND OTHERS INVOLVED
IN VIOLATION OF THE LAWS AND REGULATIONS OF THE HOST COUNTRIES.
THE RESOLUTION CALLS UPON GOVERNMENTS TO TAKE NECESSARY AND
APPROPRIATE
MEASURES WITHIN THEIR RESPECTIVE NATIONAL JURISDICTIONS AND TO
CO-OPERATE TO PREVENT SUCH CORRUPT PRACTICES. FINALLY, THE
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RESOLUTION REQUESTS THE ECONOMIC AND SOCIAL COUNCIL

TO DIRECT THE COMMISSION ON TRANSNATIONAL CORPORATIONS TO INCLUDE IN ITS PROGRAMME OF WORK THE QUESTION OF CORRUPT PRACTICES OF TRANSNATIONAL CORPORATIONS AND TO MAKE RECOMMENDATIONS ON WAYS AND MEANS WHEREBY SUCH CORRUPT PRACTICES CAN BE EFFECTIVELY PREVENTED.

2. THE PROBLEM OF CORRUPT PRACTICES IS BOTH A TRADE AND INVESTMENT PROBLEM AND, IN FACT, EXTENDS BEYOND THE ACTIVITIES OF TRANSNATIONAL ENTERPRISES. IT IS PRIMARILY THE RESPONSIBILITY OF EACH STATE TO SET FORTH CLEAR RULES RELEVANT TO SUCH ACTIVITIES WITHIN THEIR TERRITORIES - TO ESTABLISH AND ENFORCE LEGISLATION DEALING WITH THE PROBLEM, INCLUDING CLEAR RULES AS TO THE USE OF AGENTS IN TRANSACTIONS WITH THE GOVERNMENT. HOWEVER, THE DIMENSIONS OF THE PROBLEM ARE SUCH THAT UNILATERAL ACTION NEEDS TO BE SUPPLEMENTED BY MULTILATERAL CO-OPERATION. CO-ORDINATED ACTION BY EXPORTING AND IMPORTING, HOST AND HOME COUNTRIES IS THE ONLY EFFECTIVE WAY TO PREVENT IMPROPER ACTIVITIES OF THIS KIND. THE MOST EFFECTIVE METHOD OF ACHIEVING SUCH INTERNATIONAL CO-OPERATION IS THROUGH AN INTERNATIONAL AGREEMENT DEALING WITH CORRUPT PRACTICES.

3. AN INTERNATIONAL AGREEMENT DEALING WITH CORRUPT PRACTICES SHOULD BE BASED ON THE FOLLOWING PRINCIPLES:

(A) IT WOULD APPLY TO INTERNATIONAL TRADE AND INVESTMENT TRANSACTIONS WITH GOVERNMENTS, I.E., GOVERNMENT PROCUREMENT AND OTHER GOVERNMENTAL ACTIONS AFFECTING INTERNATIONAL TRADE AND INVESTMENT AS MAY BE AGREED;

(B) IT WOULD APPLY EQUALLY TO THOSE WHO OFFER OR MAKE IMPROPER PAYMENTS AND TO THOSE WHO REQUEST OR ACCEPT THEM;

(C) IMPORTING GOVERNMENTS WOULD AGREE TO (1) ESTABLISH CLEAR GUIDELINES CONCERNING THE USE OF AGENTS IN CONNECTION WITH GOVERNMENT PROCUREMENT AND OTHER COVERED TRANSACTIONS AND (II) ESTABLISH APPROPRIATE CRIMINAL PENALTIES FOR DEFINED CORRUPT PRACTICES BY ENTERPRISES AND OFFICIALS IN THEIR TERRITORY;
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(D) ALL GOVERNMENTS WOULD CO-OPERATE AND EXCHANGE INFORMATION TO HELP ERADICATE CORRUPT PRACTICES;

(E) UNIFORM PROVISIONS WOULD BE AGREED FOR DISCLOSURE BY ENTERPRISES, AGENTS AND OFFICIALS OF POLITICAL CONTRIBUTIONS, GIFTS AND PAYMENTS MADE IN CONNECTION WITH COVERED TRANSACTIONS.

4. THE COMMISSION BELIEVES THAT URGENT AND SERIOUS CONSIDERATION SHOULD BE GIVEN TO THE PREPARATION OF AN INTERNATIONAL AGREEMENT WHICH WOULD ESTABLISH CERTAIN STANDARDS AND PROCEDURES RELATIVE TO INTERNATIONAL TRADE AND INVESTMENT TRANSACTIONS WITH GOVERNMENTS WITH THE AIM OF ELIMINATING CORRUPT PRACTICES IN THESE AREAS. ACCORDINGLY, THE COMMISSION REQUESTS THAT THE ECONOMIC AND SOCIAL COUNCIL AT ITS SIXTY-FIRST SESSION GIVE PRIORITY CONSIDERATION TO THIS QUESTION AND ESTABLISH AN EXPERT GROUP TO STUDY AND PREPARE, BASED ON THE PRINCIPLES SET FORTH IN PARAGRAPH 3 HEREOF. RECOMMENDATIONS FOR SUCH AN AGREEMENT. THE REPORT OF THE EXPERT GROUP WOULD BE SUBMITTED TO THE ECONOMIC AND SOCIAL COUNCIL AT ITS SIXTY-THIRD SESSION. MEMBERS OF THE EXPERT GROUP WOULD BE APPOINTED BY THE SECRETARY-GENERAL ON THE BASIS OF THEIR PERSONAL EXPERTISE IN CONSULTATION WITH GOVERNMENTS AND WITH DUE REGARD TO REGIONAL BALANCE. THE CENTRE ON TRANSNATIONAL CORPORATIONS, ALONG WITH SUCH OTHER ORGANS OF THE UNITED NATIONS AS THE ECONOMIC AND SOCIAL COUNCIL DEEMS APPROPRIATE, WOULD GIVE FULL SUPPORT AND ASSISTANCE THE EXPERT GROUP IN ITS WORK.

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: AGREEMENT DRAFT, STANDARDS, CORRUPTION, COMMITTEE MEETINGS, INTERGOVERNMENTAL COOPERATION, MULTINATIONAL CORPORATIONS
Control Number: n/a
Copy: SINGLE
Draft Date: 08 APR 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Authority: n/a
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 JAN 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976STATE084464
Document Source: CORE
Document Unique ID: 00
Drafter: WWITTING
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D760132-0897
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19760482/aaaacsbg.tel
Line Count: 137
Locator: TEXT ON-LINE, ON MICROFILM
Office: ORIGIN EB
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: MartinML
Review Comment: n/a
Review Content Flags:
Review Date: 10 JUN 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <10 JUN 2004 by SilvaL0>; APPROVED <04 JAN 2005 by MartinML>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: UN COMMISSION ON TNC - US PAPER ON CORRUPT PRACTICES
TAGS: OCON, EFIN, PE, US, ECOSOC
To: OECD PARIS
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006